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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,242	12/20/2001	Ralph L. Anderson	KCX-462 (15879)	9073
22827	7590	05/26/2005	EXAMINER	
DORITY & MANNING, P.A.			TORRES VELAZQUEZ, NORCA LIZ	
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1771

DATE MAILED: 05/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/027,242

Applicant(s)

ANDERSON ET AL.

Examiner

Norca L. Torres

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 39-56 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 39-56 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 030705.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed March 14, 2005 have been fully considered but they are not persuasive.

a. Applicants have indicated that the Annable reference (US 6,797,226 B2) is not available as prior art to the present application under 35 U.S.C. 103(a) and have cited the rules under the provisions of 35 U.S.C. 103(c). However, Applicants have failed to make a positive statement indicating that the Annable and the present application were both subject to assignment to Kimberly-Clark Worldwide, Inc. at the time the invention was made. Therefore, the Examiner maintains the rejections of the claims over the prior art for this reason. The Examiner will withdraw such rejection (over Annable) once it is clear on the record that the reference and the present application were both subject to assignment to Kimberly-Clark Worldwide, Inc. at the time the invention was made.

b. The obvious-type double patenting rejections stated by the Examiner in the previous action are maintained herein. These will be withdrawn upon submission of terminal disclaimers.

c. Upon further reviewing the prior art cited by Applicants in their IDS, the Examiner is applying the WO 99/20821 (to Anderson et al.) herein.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 39-56 are rejected under 35 U.S.C. 102(b) as being anticipated by ANDERSON et al. (WO 99/20821).

4. ANDERSON et al. related to a method of making a nonwoven composite material. The method includes the steps of: providing a hydraulically entangled web containing a fibrous component and a nonwoven layer of substantially continuous filaments, creping at least one side of the hydraulically entangled web. (Abstract) The reference teaches the use of their material in absorbent products such as industrial wipers. (page 1, line 10) The hydraulically entangled composite web includes more than about 50% of a fibrous component. The continuous filaments may be monocomponent filaments or they may be conjugate spun filaments. (Page 3, lines 28-40) The conjugate spun filaments may be splittable fibers. (Page 4, lines 2-3) The fibrous component could be pulp. The reference also teaches the use of synthetic fibers and staple length fibers added to the pulp fibers. These other fibrous materials may be "non-bonding fibers" and can be added to the web in an amount from about 5% to about 30% by weight. (Page 10, lines 16, 25-40) The reference teaches the use of polyesters, polyamides and polyolefins and blends thereof in the conjugate filaments. (Page 12, lines 9-12) The reference also teaches stretching or pulling the sheet after creping. (Page 18, lines 4-10)

5. It is the Examiner's interpretation that the nonwoven composite material taught by the ANDERSON et al. reference provides the same composite fabric structure claimed in the present invention.

Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
7. Claims 39-44, 49-51, 55 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over SUSKIND et al. (US 4,808,467) in view of ANNABLE (US 6,797,226 B2) and ANDERSON et al. (US 6,103,061) as stated in previous office action.
8. SUSKIND et al. discloses a continuous filament base web and a separately formed fibrous layer or web composed of a mixture of wood pulp fibers and textile fibers that are spunlaced into one another to provide a nonwoven fabric. (Col. 2, lines 12-16) The continuous filament web and the fibrous web are separately formed and brought together as separate layers or plies and then subjected to hydraulic entanglement to produce a single composite spunlaced fabric. (Col. 2, lines 21-25) The reference also teaches the use of staple fibers in the fibrous layer. (Col. 2, lines 32-33) Teaches the use of staple fiber lengths in the range of from about three eights inch [*as related to claim 42*] to about one inch. (Col. 2, lines 56-58) The wood pulp fiber content of the reinforced nonwoven web may be in the range of from about 40 weight percent to about 90 weight percent. (Col. 2, lines 63-66) The reference teaches the use of polymer blend in the continuous filaments and teaches the use of polyethylene, polypropylene, polyester and nylon. [*as related to claim 44*] Further, the reference teaches that bonding of the continuous filament web is essential when produced in a separate step, in which case the bonding area should not exceed about fifteen percent of the total area of the web for best result. Bonding in the range of six to ten percent area bonded is preferred. (Col. 3, lines 7-16)

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9. It is the Examiner's interpretation that the SUSKIND et al. provides a nonwoven web that can be formed from continuous filaments of polymer blends (equated to multicomponent thermoplastic fibers) and a fibrous web that comprises from about 40-90% wood pulp. SUSKIND et al. teaches hydraulic entanglement of the two webs to produce a single composite spunlaced fabric.

10. With regards to claim 41, SUSKIND teaches in Example 6 the use of 20% staple fibers. (Col. 8, lines 50-51)

11. While SUSKIND et al. teaches the main structure of the composite, it fails to teach that the nonwoven web is creped and that the continuous filaments of polymer blends are splittable.

12. ANNABLE is directed to a method for forming a wiping product. The wiping product contains a fabric formed from a nonwoven web that is bonded by micro creping at least one side of the web. The nonwoven web can contain melt-spinnable fibers, such as polyolefins. (Abstract) The reference teaches that after forming the fibers into a web, the web can then be bonded to improve the strength of the web and teaches using microcreping, which is a mechanical compaction process normally used in the art to soften a web. By bonding the web using microcreping, the resulting bulk, absorption capacity, and softness of the fabric can be improved, while also imparting sufficient strength to the web so that it may be used as a wiper. (Col. 2, lines 7-15) The reference further teaches the formation of micro-folds. [*as related to claim 51*] (Col. 2, line 39) The reference further teaches the use of conjugate or biconstituent fibers or filaments. (Col. 5, lines 54-59) The reference further refers to "conjugate fibers" in terms of multicomponent fibers and teaches different arrangements such as side-by-side arrangement. [*as related to claim 43*] (Col. 3, lines 25-40)

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13. However, the reference is silent to the multicomponent fibers being splittable.

14. ANDERSON et al. is directed to absorbent products such as industrial wipers. The reference teaches a composite material that contains a hydraulically entangled web that includes a fibrous component and a nonwoven layer of substantially continuous filaments. The reference teaches the use of substantially continuous filaments such as conjugate spun filaments and further teaches that these may be splittable fibers. (Col. 3, lines 26-50) The reference provides a similar structure but uses creping at least one side of the material after it has been hydraulically entangled. (Col. 2, lines 31-36)

15. Since the references are directed to nonwoven materials, the purpose disclosed by ANNABLE and ANDERSON would have been recognized in the pertinent art of SUSKIND et al.

16. It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the nonwoven fabric of SUSKIND et al. and provide the nonwoven web with multicomponent fibers that are splittable and subject the web to a microcreping process prior to entangling it to the fibrous material with the motivation of providing the composite with a web that has improved bulk, absorption capacity and softness as disclosed by ANNABLE above and ANDERSON et al. (Refer to col. 1, lines 16-18)

17. Claims 46-48 and 52-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over SUSKIND et al., ANNABLE and ANDERSON as applied above, and further in view of FITTING (US 5,573,719) as stated in previous office action.

18. The prior art above fails to teach that the nonwoven web is also mechanically stretched.

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19. FITTING teaches a process for producing a highly absorbent, high strength wiper. (Abstract) The reference teaches stretching the web by applying tension in the machine, cross machine or both directions and teaches doing so by suitable processed which include mechanical stretching. (Refer to Col. 2, lines 44-61) The reference further teaches that although the desirable degree of stretch may vary widely, in general, a higher level of stretch results in an absorbent nonwoven web having a higher absorbent capacity. (Col. 2, lines 61-64) As highly suitable embodiment the reference teaches a nonwoven web stretched up to about 50%. (Col. 3, line 1)

20. Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the nonwoven web and provide with mechanical stretching at the ranges taught by FITTING with the motivation of providing the web with higher absorbency capacity as disclosed by FITTING above.

Double Patenting

21. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

22. Claims 39, 44-45, 49, 50, 51, 55 and 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35-39,

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41, 42, 47, 48-52, 53, 54, 58, 59 and 62 of copending Application No. 10/328,846. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application comprise all the elements of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

23. Claims 39, 40, 44, 49, 50, 51, 55 and 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 16-25 of copending Application No. 10/328,751. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application comprise all the elements of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

24. Claims 39, 44, 49, 50, 55 and 56 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-9 of copending Application No. 10/328,450 in view of ANDERSON et al. (US 6,103,061). The copending application claims that the nonwoven web comprises monocomponent thermoplastic fibers instead of the presently claimed multicomponent thermoplastic fibers. ANDERSON '061 is directed to a method of making a nonwoven composite material similar in structure to the one in the copending application (refer to claims), and teaches the use of continuous filaments and that these may be monocomponent filaments or they may be conjugate spun filaments. (Col. 3, lines 43-50) Therefore, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the filaments of the copending application and

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provide the nonwoven with conjugate filaments (multicomponent) with the motivation of providing an alternate embodiment that will also produce an absorbent product with good bulk, a soft feel and high absorbency as disclosed by ANDERSON et al. '061 (Col. 1, lines 16-17)

This is a provisional obviousness-type double patenting rejection.

25. Claims 39, 40, 41, 42 and 51 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 35-37, 40-42 and 44 of copending Application No. 10/744,606. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the copending application comprise all the elements of the present application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 571-272-1484. The examiner can normally be reached on Monday-Thursday 8:00-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Norca L. Torres-Velazquez
Examiner
Art Unit 1771

May 18, 2005


NORCA TORRES
PRIMARY EXAMINER